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and a clerk who has once duly admitted a deed to record has no more power to recall his act than he would have to strike from the deed-book a deed duly engrossed thereon.

2. *DEEDS—Admission to record—Direction not to record—Second deed on same property—Estoppel.* A deed of trust to secure a debt was duly admitted to record by the proper clerk and so endorsed by the clerk, and the creditor secured was notified of that fact by his attorney, but before it was actually engrossed on the deed-book the attorney instructed the clerk not to record it till further ordered. Ten days before such further orders were given a second deed of trust on the same property securing a different creditor was duly recorded. After the first deed was recorded the date of the former endorsement was erased, and the date of its actual record was endorsed thereon, and it was forwarded to the creditor secured. A year or more after the first deed with its endorsements thereon was delivered to the creditor secured thereby, the creditor secured in the second deed assigned his debt to third parties for value received of them. The creditor secured by the first deed took no steps, prior to said assignment, to have the date of the recordation of his deed corrected.

Held: The endorsement on the first deed of trust was notice to the creditor secured of the date when his deed purported to have been admitted to record, and, having taken no steps to have the record corrected, he is estopped to assert his lien as against the assignees of the debt secured by the second deed, and they take priority over him.

ESTOPPEL—Knowledge of truth generally essential—Exception to general rule. Generally actual knowledge of the truth as to the material facts represented or concealed, is indispensable to the application of the doctrine of equitable estoppel, but such knowledge is not indispensable where the circumstances are such that a knowledge of the truth is necessarily imputed to the party sought to be estopped, nor where he has neglected to perform some duty whereby another has been misled to his injury or prejudice. Where one man, by the neglect of some duty, leads another to believe in the existence of certain facts, and under this belief, to do an act to his prejudice, the former will not, as against the latter, be heard to deny the existence of such facts.

BUILDING LIGHT & WATER CO. v. FRAY.—Decided at Richmond, January 12, 1899.—*Cardwell, J.*

1. *COVENANT OF SEISIN, OR RIGHT TO CONVEY—Inchoate dower.* A covenant for seisin, or of the right to convey, which in most cases is its equivalent, is not broken by an outstanding inchoate right of dower. It does not affect the technical seisin of the grantee.

2. *DEEDS—Husband and wife—Recordation—Dower.* An unrecorded deed from husband and wife conveying his land does not convey the wife's contingent right of dower in the land. The deed must be admitted to record as to the husband as well as the wife in order to accomplish this result. Code, sec. 2502.

3. *DEEDS—Reconveyance to secure purchase price—Dower of vendee's wife.* If land be conveyed to a husband who, as a part of the same transaction, reconveys it to a trustee to secure only two-thirds of the purchase money, although none of the

purchase money is paid, and he subsequently resells the land to his grantor for the amount agreed to be paid by him and conveys the same to his grantor by a deed from himself and wife which is lost before being admitted to record, his widow has no claim on the land, whatever may be her claim on the one-third of the purchase price for which no lien was reserved.

4. COVENANT OF SEISIN—*Breach—Damages.* The covenant of seisin is broken, if at all, as soon as it is made, but the damages to be recovered therefor are not necessarily the consideration paid, but are to be measured by the actual loss sustained, and if, before any injury is sustained the covenantor perfects his title by inurement, the recovery for the breach of the covenant will be limited to nominal damages only.

5. COVENANTS—*Seisin—Further assurances—Supplying evidence of title—Damages.* A grantor who has covenanted that he has the right to convey, and that he will give further assurances of title, may, before his grantee has suffered any damage or been disturbed in his possession and before suit for breach of his covenants, set up and supply a missing link in the chain of his title whereby his grantee is assured of his title and possession.

6. CHANCERY JURISDICTION—*Lost deeds—Effect of decree setting up deed—Evidence.* Courts of equity have jurisdiction to set up lost deeds, and when so set up in a suit in which the court has jurisdiction of the parties and the subject matter, the decree and the deed made in pursuance thereof are proper evidence of the passing of the title by the lost deed and they cannot be assailed in any collateral proceeding. The decree alone is sufficient without the introduction of other parts of the record.

7. LOST DEED—*Husband and wife—Decree setting up deed—Dower.* A decree of a court of chancery setting up an unrecorded deed of husband and wife, which has been lost, does not operate to debar the wife, on the death of her husband, from claiming dower in the land, if she was otherwise entitled to it. The execution and delivery by her of the lost deed did not convey her interest. Admission to record was necessary to accomplish that.

MARYE, AUDITOR, v. BOARD OF AGRICULTURE.—Decided at Richmond, January 12, 1899.—*Keith, P.*

1. BOARD OF AGRICULTURE—*Out of what fund salaries and expenses to be paid—Public funds.* The appropriation bill approved March 3, 1898, expressly forbids the payment of the salaries of the Commissioner of Agriculture and his clerk, and the expenses of the Bureau of Agriculture, or any part thereof, out of the public treasury, and repeals, if not expressly, by necessary implication, all former laws authorizing such payment. No money can be paid out of the public treasury except in pursuance of appropriations made by law, and in the case at bar there has been no such appropriation. The act provides that the salaries and expenses aforesaid shall be paid "from the fees and taxes collected on forfeitures."

GRAND FOUNTAIN, U. O. T. R. v. WILSON. Decided at Richmond, January 12, 1899.—*Keith, P.* Absent, *Reily and Cardwell, JJ.*

1. EVIDENCE—*Assignments—Testamentary papers—Insurance.* An endorsement